IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.14989 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANUPAMA STEEL LTD.

Versus

PRAMODKUMAR JUGESHWAR PRASADSING & ANR.

Appearance:

1. Special Civil Application No. 14989 of 2004

MR. HARSHIT S. TOLIA for Petitioner

MR. KISHOR M. PAUL for Respondent No. 1

MR. H.S. MUNSHAW for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 23/02/2005

ORAL JUDGEMENT

1. Rule.

Mr.Kishor M.Paul and Mr.H.S.Munshaw, learned Advocates, appear and waive service of Rule on behalf of respondent nos.1 and 2 respectively.

At the request of Mr.Harshit S.Tolia, learned Advocate for the petitioner, and with the consent of the learned Advocates for the respondents, the matter is taken up for final disposal.

2. The petitioner-Anupama Steel Limited is before this Court being aggrieved of Judgement and Order dated 2nd November, 2004 passed by the learned Presiding Officer of the Labour Court, Bhavnagar in Miscellaneous Application No.23 of 2004 in Recovery Application No.213 of 2004. The learned Presiding Officer of the Labour Court was pleased to reject the Miscellaneous Application as well as Exh.2-application filed for obtaining injunction and, vacate the order of maintaining status quo granted on Exh.9-Application.

3. Mr.Harshit S.Tolia, learned Advocate for the petitioner, strenuously submitted that the learned Judge of the Labour Court has committed a grave error by not appreciating that the notice was not served to the petitioner. The learned Judge ought to have appreciated that the postal receipt-Exh.4 did not contain signature of any person on behalf of the petitioner-Company, not only that, it did not bear any rubber stamp of the petitioner-Company. He submitted that the learned Judge ought to have believed that the postal acknowledgment receipt bore the signature of some unknown person. He submitted that in view of these facts, the learned Judge of the Labour Court ought to have allowed the Miscellaneous Application of the petitioner. The learned Advocate, therefore, submitted that the impugned judgement and order is required to be quashed and set aside.

4. Mr.Kishor M.Paul and Mr.H.S.Munshaw, learned Advocates for the respondents, submitted that the learned Judge of the Labour Court has not committed any error and hence, the impugned judgement and order does not require an interference at the hands of this Court and hence, the petition be dismissed summarily.

5. Having heard the learned Advocates for the parties and having given a considered thought to the facts of the case, it is deemed fit that the present petition be disposed of with the following directions:

(i) Respondent No.1 is permitted to withdraw the amount deposited before this Court (i.e. Rs.1,30,000=00) without prejudice to any of the rights and contentions of the petitioner-institution. The Office is directed

to issue an account payee cheque in the name of the respondent-workman as early as possible, but, not later than 22nd March, 2005.

(ii) Recovery Application No.213 of 2003 is remanded to the learned Judge of the Labour Court. The same shall be heard and decided on merits after affording full opportunity to the parties.

(iii) The learned Judge of the Labour Court shall decide the Recovery Application No.213 of 2003 in accordance with law, without being prejudiced by any of the earlier proceedings, as expeditiously as possible, but not later than 31st July, 2005.

(iv) Till the Recovery Application No.213 of 2003 is finally decided, the interim relief granted by this Court shall continue to operate and shall come to end automatically, thereafter.

With the aforesaid directions, the petition is disposed of. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)

kamlesh*